

**NEW JERSEY TITLE IV-E
FOSTER CARE ELIGIBILITY REVIEW
FOR THE PERIOD
OCTOBER 1, 1999 TO MARCH 31, 2000**

INTRODUCTION

During the week of September 18, 2000, a team of staff from the Administration for Children and Families' (ACF) Regional and Central Offices, and the New Jersey Division of Youth and Family Services (DYFS) conducted a primary eligibility review of New Jersey's title IV-E foster care program.

The purpose of the title IV-E eligibility review was to validate the accuracy of New Jersey's claims to assure that payments were made on behalf of eligible children to eligible homes and institutions.

SCOPE OF THE REVIEW

The New Jersey title IV-E foster care review, which was conducted in Trenton, NJ, encompassed all title IV-E foster care cases during the period from October 1, 1999 to March 31, 2000. A computerized statistical sample of 80 cases was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data transmitted by DYFS to ACF. The sampling frame consisted of cases of individual children for whom at least one title IV-E foster care maintenance payment was made during the six-month period noted above. For each case, the child's case file was reviewed for the documentation establishing the determination of title IV-E eligibility and to ensure that the foster home in which the child was placed was licensed for the period of the review.

CASE RECORD SUMMARY

Of the 80 cases selected for the primary title IV-E eligibility review, 49 cases were determined ineligible for either part or all of the review period for one or more reasons that are identified below. Appendix A of this report details each sample case and the reason(s) for ineligibility and the ineligible dollar amounts associated with that case. New Jersey has worked with ACF to identify the applicable title IV-E claimed payments for all of the cases reviewed.

Since the number of ineligible cases exceeded eight, New Jersey is considered not to be in substantial compliance with title IV-E eligibility requirements. Pursuant to 45 CFR Section 1356.71(i), New Jersey is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance. The PIP will be developed jointly by State and Federal staff and must be submitted to ACF for approval within 90 days of receipt of this report. The PIP is not to extend beyond one year unless State legislative action is required. In such instances, an extension may be granted with the State and ACF negotiating the terms and length of the extension that shall not exceed the last day of the first legislative session after the date of the PIP.

Reasons of Ineligibility

Number of Cases

Licensing Related	33
Reasonable Efforts Related	14
Placement and Care Related	4
Voluntary Placement Related	3
AFDC Related	3

AREAS IN NEED OF IMPROVEMENT

During the review the following areas were identified as areas that are in need of improvement. These areas must to be addressed in the PIP. The format of the PIP may vary, but it must include the following components:

- specific goals;
- action steps required to correct each identified weakness or deficiency;
- a date by which each of the action steps is to be completed;
- a description of how progress on the plan will be evaluated by the State and reported to the Regional Office, including the frequency and format of the evaluation procedures.

1. Placement in a licensed foster family home or child care institution – In order for foster care payments made on behalf of a child to be eligible for Federal reimbursement, the child must be placed in a facility that meets all of the State agency standards of full licensure or approval established by the State. For each case being reviewed, the State agency must make available a licensing file which contains the licensing history, including a copy of the certificate of licensure/approval or letter of approval, for each of the child's foster care providers.

Review results indicated that payments made on behalf of 33 cases reviewed were ineligible for Federal Financial Participation (FFP) because licensing or approval documentation was not available regarding the initial or subsequent certification/approval of the foster home. In addition, lapses in title IV-E eligibility occurred for a number of cases because the initial or subsequent approval of the foster home was not conducted in a timely manner. We also observed the tendency by the State agency to issue temporary licenses, which also contributed to lapses in title IV-E eligibility.

As of May 1999 new licensing procedures were initiated by DYFS which entails transitioning from Regional Office approval to Central Office licensing. Our understanding is that the phased-in implementation of the new procedures contributed to the large number of foster care providers who were found ineligible for the review period because their license had expired or a license had not been issued. Under the new procedures, the Bureau of Licensing will issue a Certificate of Approval when a facility or home achieves compliance with the applicable Manual of Requirements/Standards. Relative foster homes will be required to meet the same requirements as non-relative foster homes. Renewal will occur every two years. New Jersey anticipates that full implementation of these new procedures will improve the timely licensing or approval of foster homes.

2. Reasonable Efforts Determinations - The State agency must obtain a judicial determination that it has made reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured, or that reasonable efforts have been made to reunify the child and family. If the court order indicates nothing to this effect, or that reasonable efforts were not made, the child is ineligible for FFP. It was determined that in 14 cases the applicable court orders did not contain a reasonable efforts judicial determination. Although in some cases the case record or petition indicated that the State agency had worked diligently with the family, the court orders did not contain a judicial determination to this effect.

It is our understanding that New Jersey has worked very closely with the courts in implementing new court orders that will contain the required judicial determinations regarding reasonable efforts in accordance with 45 CFR Section 1356.21(b). In this regard, as part of the title IV-E review, ACF conducted a Technical Assistance Review of the New Jersey court orders that were put into effect as of March 27, 2000 for compliance with 45 CFR Section 1356.21(b)(1).

Of the cases of children in foster care reviewed (10 out of the 11 provided), 9 would substantially satisfy the requirement for a judicial determination that reasonable efforts were made to prevent placement or reasonable efforts were not required within 60 days of a child's placement in foster care. One case does not substantially meet the requirement for explicit documentation of the judicial determination regarding reasonable efforts. ACF is in agreement, that in concept, the new court orders meet the Federal requirements. However, the State must be careful that the verified complaint supports the judicial determinations for reasonable efforts and contrary to welfare. It would be advisable for the State to continue to monitor the use of these new court orders and revise them as necessary.

3. Responsibility for placement and care vested with the State Agency – The title IV-E agency (or another public agency, including an Indian tribe, with which the title IV-E agency has a written agreement, which is in effect) must have responsibility for placement and care of the child.

Review results indicated that, in four cases either the court order giving the State agency responsibility for placement and care could not be located for review, or that the 15-day Voluntary Placement Agreement (VPA) had expired. As a result, it was determined that the child was not under the responsibility of the State agency and the child was determined ineligible for FFP.

One area of particular concern was the use of the 15-day Voluntary Placement Agreement. In order to maintain state agency responsibility for placement and care DYFS must monitor the use of these agreements to assure that the necessary court orders are obtained in a timely manner before the VPA expires. The State must continue to emphasize to staff the importance of the Federal requirements regarding judicial determinations. There must be a clear understanding that court orders be rendered in a timely manner and maintained in the case record.

4. Voluntary placement agreements - A child who is removed from his/her home under a voluntary placement agreement is eligible for foster care maintenance payments made in the first 180 days of foster care. To continue eligibility beyond this time period a judicial determination indicating that continued voluntary placement is in the best interests of the child must be made within that first 180 days in foster care. The parent(s) or legal guardian(s) and the State agency authorities must sign the agreement.

Three cases were found ineligible because the court orders were not obtained within 180 days of the child's placement into foster care or the voluntary placement agreement was invalid because it was not signed by the child's parent or legal guardian. Although New Jersey law allows the voluntary placement agreement to be signed by the child's caretaker, as a condition of receipt of FFP in foster care maintenance payments for children who are placed pursuant to a VPA, the State must meet the requirements of 45 CFR Section 1356.22.

5. AFDC eligibility as of July 16, 1996 - The State must document that the child was financially needy and deprived of parental support at the time of removal, using criteria in effect in its July 16, 1996 title IV-A State Plan. It was determined that in three cases incorrect AFDC eligibility determinations were made or documentation was not available. We also found that many of the AFDC determinations were incomplete, not signed, or not dated.

In addition, it was observed that the AFDC determination was nearly always focused on the child's mother, even if the mother had not been involved with the child for a long period of time. AFDC determinations must be based on the home from which the child is removed. The State must stress to staff the impact on Federal reimbursement if the necessary AFDC determinations are not made, made incorrectly, or if the documentation is not maintained in the case record. ACF recommended that the State's eligibility determination form be revised in order to document in a clear and concise manner the basis and supporting sources of AFDC eligibility.

FUTURE CONCERNS

Although the following areas are not required to be addressed in the PIP, it is strongly recommended that New Jersey begin to take corrective action now in order to assure compliance with title IV-E regulations and to prepare for future reviews.

Contrary to Welfare (Juvenile Justice Cases) - Based on the case review it was noted that for children who were in the juvenile justice system, the initial removal order did not contain a contrary to welfare judicial determination. Although no cases were found ineligible for this review period, we believe that the current practice will adversely affect Federal reimbursement for these cases because of the change in Federal regulation. For a child who entered care prior to March 27, 2000 the judicial determination regarding "contrary to the welfare" must have resulted from court proceedings that were initiated no later than **six months** from the date the child was removed from home, consistent with DAB 1508.

For a child who enters care on or after March 27, 2000, the removal from the home must be the result of a judicial determination to the effect that continuation in the home would be contrary to the welfare, or that placement in foster care would be in the best interest of the child (unless removal is pursuant to a voluntary placement agreement). The contrary to the welfare ruling must be made in the **first court ruling** that sanctions the removal from home, otherwise the child is ineligible for foster care maintenance payments for the duration of that stay in foster care.

2. AFCARS Mapping - We found that in six cases title IV-E foster care payments were not made. The sample depends on the accuracy of AFCARS data element #59, *Title IV-E Foster Care*. Data element #59 inquires whether or not title IV-E foster care maintenance payments are being paid on behalf of the child. If title IV-E foster care maintenance payments are being paid on behalf of the child, the element should be coded “1”. If title IV-E foster care maintenance payments are not being paid on behalf of the child, the element should be coded “0”. The sampling frame should consist of all cases (children) whose AFCARS data element # 59 had a “1” coded in that field. It is recommended that DYFS review its AFCARS mapping to assure that non-title IV-E cases are being properly classified.

STRENGTHS AND MODEL PRACTICES

1. Permanency Hearings - A judicial determination regarding reasonable efforts to finalize the *permanency plan* must be made within 12 months of the date the child is considered to have entered foster care; and, at least once every 12 months thereafter while the child is in foster care. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made, the child is ineligible at the end of 12 months from entering foster care; or at the end of the month in which the most recent judicial determination of reasonable efforts was made, and remains ineligible until such a judicial determination is made. A *Permanency Plan* for a child may be reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement.

Based on the case review, it appears that New Jersey has properly implemented this new requirement, and that the permanency hearings with the appropriate judicial determinations are being made in a timely manner.

2. Criminal Background Checks - In accordance with 45 CFR Section 1356.30, the licensing file must contain documentation that the State has complied with the safety requirements (criminal record checks) for foster and adoptive placements. We found that in every case this requirement was being met.

3. Case Record Documentation of Services - It was also observed that in the majority of cases, the case records contained detailed documentation regarding the types of services provided or arranged either to protect the child and/or to reunify the child with the family.

4. Stability of Foster Care Placement - Based on the cases reviewed, we observed that DYFS has made significant effort to assure minimal movement of children in foster care. It was noted that changes in the placement settings were well documented and related to helping the child achieve the case plan goals, and in many cases to achieve permanency.

DISALLOWANCE

Based upon the review of case record documentation provided for the 80 sampled cases, maintenance payments totaling \$219,139 (\$109,569 Federal share) made on behalf of 49 children were found ineligible for Federal reimbursement under title IV-E foster care for the review period October 1, 1999 through March 31, 2000. An additional \$163,558 (\$81,779 Federal Share) of foster care maintenance payments made on behalf of 16 of the 49 children were found to be unallowable for additional periods because the child's entire foster care placement was ineligible for title IV-E. A total amount of \$382,697 (\$191,348 Federal share) will be disallowed pursuant to the enclosed decision letter.

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APPENDIX A
SUMMARY OF INELIGIBLE CASES

SAMPLE NO.	INELIGIBILITY REASON STATUTORY/ REGULATORY PROVISION	INELIGIBLE DOLLAR AMOUNT
01	Voluntary Placement Agreements and Best Interests Determinations - statute: 472(d), (e), and (f); regulation: 1356.22 Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	\$ 156.78
02	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	1,521.46
03	Voluntary Placement Agreements and Best Interests Determinations - statute: 472(d), (e), and (f); regulation: 1356.22	2,599.88
04	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	16,324.10
05	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	428.22
06	Placement and Care Responsibility Vested with the State Agency- statute 472(a)(2); regulation 1356.71(d)(1)(iii)	394.59
08	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	1,869.35
09	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1) Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	3,079.84
11	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	13,165.07
12	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	3,645.46
19	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	434.85
20	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	488.12
21	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	22,386.87
22	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,731.23
24	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	1,736.52
25	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	1,143.38
27	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	11,973.83

SAMPLE NO.	INELIGIBILITY REASON STATUTORY/ REGULATORY PROVISION	INELIGIBLE DOLLAR AMOUNT
29	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	\$ 2,911.23
31	Voluntary Placement Agreements and Best Interests Determinations - statute: 472(d), (e), and (f); regulation: 1356.22 AFDC Eligibility - statute: 472(a)(1) and (4); regulation 1356.71(d)(1)(v)	48,770.51
33	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	11,843.54
35	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	4,528.96
37	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	7,426.84
40	Placement and Care Responsibility Vested with the State Agency- statute 472(a)(2); regulation 1356.71(d)(1)(iii)	14,377.09
41	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,022.50
42	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	895.49
43	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	199.89
44	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	75.66
49	AFDC Eligibility - statute: 472(a)(1) and (4); regulation 1356.71(d)(1)(v) Placement and Care Responsibility Vested with the State Agency- statute 472(a)(2); regulation 1356.71(d)(1)(iii)	7,027.74
50	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	12,626.53
51	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,791.23
52	Placement and Care Responsibility Vested with the State Agency- statute 472(a)(2); regulation 1356.71(d)(1)(iii)	19,310.93
54	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	977.08
55	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	14,497.15
56	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,268.56
57	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,731.23
61	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	13,805.67

SAMPLE NO.	INELIGIBILITY REASON STATUTORY/REGULATORY PROVISION	INELIGIBLE DOLLAR AMOUNT
63	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	\$ 4,549.97
65	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	3,031.23
67	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1) Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	23,806.59
71	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1) AFDC Eligibility - statute: 472(a)(1) and (4); regulation 1356.71(d)(1)(v) Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	14,906.41
74	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	638.82
75	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,381.39
77	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	6,854.26
79	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1) Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	12,315.90
80	Reasonable Efforts to Prevent Removals - statute: 472(a)(1), 471(a)(15)(B)(i); regulation: 1356.21(b)(1)	47,724.98
OS1	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	3,893.40
OS2	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	331.23
OS5	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	6,364.10
OS6	Placement in a Licensed Foster Family Home or Child Care Institution - statute: 472(a)(3), (b), and (c); regulation: 1355.20, 1356.71(d)(1)(iv)	2,731.23
	TOTAL	\$382,696.88

